

ATTORNEY DOCKET NO. 23016.0002
SERIAL NO. 09/230,463
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)

Wynick, David)

Serial No. 09/230,463)

Filed: July 26, 1999)

For: "GALANIN")

Group Art Unit: 1646

Examiner: C. Saoud

410
112-7
6-29-00

ELECTION UNDER SECOND RESTRICTION REQUIREMENT

Facsimile Transmission
U.S. Patent and Trademark Office
Washington, D.C. 20231

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127 Peachtree Street, N.E.
Atlanta, Georgia 30303-1811

June 26, 2000

Sir:

This is in response to the Office Action dated May 26, 2000 wherein restriction of the claims of the above-identified application is required. Applicants provisionally elect Group I (claims 1, 4 and 6) with traverse.

Applicants request that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden would be required to examine all the claims. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden. See M.P.E.P. § 803.

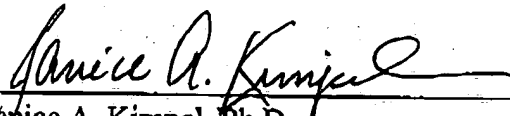
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The Examiner has not shown that the *second* requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine the first two groups (i.e. claims 1-6) together. These groups are related in that they involve medicaments for specific indications and methods for treating those indications with the medicament. Because little or no additional burden would be required to search and examine the groups together, applicants respectfully submit that the Examiner should search and examine the groups together. Indeed it would be most efficient to keep them together. Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested.

No fee is believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 14-0629.

Respectfully submitted,


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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted via Facsimile No. 703-305-3704 addressed to: C. Saoud, Group Art Unit 1646, U.S. Patent and Trademark Office, on this 26th day of June, 2000.


Janice A. Kimpel

June 26, 2000
Date